



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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HEDGEYE RISK MANAGEMENT, LLC,

Plaintiff,

- against -

DARIUS DALE, et al.

Defendants.
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21-CV-3687 (ALC) (RWL)

ORDER

ROBERT W. LEHRBURGER, United States Magistrate Judge.

This order resolves Plaintiff's letter motion to extend fact discovery from January 9, 2023 to February 28, 2023 (Dkt. 397), as well as the Terman Defendants' request for sanctions for Plaintiff's failure to timely produce its witnesses for deposition (Dkt. 400).

1. It is apparent from the state of discovery as described in the parties' collective correspondence that a further extension of discovery is warranted notwithstanding Defendants' objections to doing so. Plaintiff's motion at Dkt. 397 with respect to the discovery deadline is granted. Fact discovery is extended until February 28, 2023. Deadlines following discovery are extended commensurately. There will be no further extensions absent compelling circumstances.

2. The Court finds unreasonable Plaintiff's refusal - due to unspecified "travel and a number of personal commitments" (Dkt. 397) - to make its witnesses available for deposition in mid-December (or alternative December dates) despite the Terman Defendants' having timely noticed the depositions on November 17, 2022. Moreover, by virtue of the timing of filing of its request for a protective order on December 5, 2022, Plaintiff has effectively secured its objective of putting off the depositions. Plaintiff shall fully cooperate in making its witnesses available in timely fashion and without delaying

until the end of discovery to do so. The Court does not, however, find that sanctions are warranted at this time. The Terman Defendants' request at Dkt. 400 for sanctions is denied without prejudice.

The Clerk of Court is respectfully requested to terminate the motions at Dkt. 397 and 400.

SO ORDERED.

A handwritten signature in black ink, appearing to read 'R. Lehrburger', with a long horizontal stroke extending to the right.

ROBERT W. LEHRBURGER
UNITED STATES MAGISTRATE JUDGE

Dated: December 14, 2022
New York, New York

Copies transmitted this date to all counsel of record.